

Appl. No. 10/664,637 Confirmation No.: 5053
Applicants : Morris G. Haney & Roy Thein
Filed : 9/19/2003
Title : Submersible Pump Drop Pipe and Casing Assembly Connection and
Method of Manufacture
Assignee : Modern Products
TC/A.U. : 3679
Examiner : David Bochna
Docket No. : P-7627(DIV)

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

Pursuant to the 37 C.F.R. § 1.56 and the attendant duty of disclosure, the undersigned wishes to bring the following to the Examiner's attention for his consideration. U.S. Patent No. 6,666,480, the application for which is the parent to this application, has been the subject of the following two lawsuits:

CertainTeed Corp. v. Modern Products Industries, Inc. et al., No. 03-cv-2131
(E.D. Pa).

Modern Products Industries, Inc. v. Northern Pipe Products, Inc., No. A3-04-18
(D.N.D.).


As is practically universal in patent infringement litigation, CertainTeed and Northern Products denied that they infringed the patent and alleged that the patent was invalid under one or more of sections 102, 103, and 112.

Applicants, however, state with confidence and good faith that there is no merit to CertainTeed's and Northern Products' predictable, boilerplate contentions. Neither CertainTeed nor Northern Pipe ever identified any prior art, not already of record in the file wrapper of the '480 patent, that they contend invalidates the '480 patent under sections 102 and 103. CertainTeed also contended that the '480 patent was invalid because it did not disclose the fact, well-known to persons of ordinary skill in the art, that drop pipes are almost always manufactured with tapered threads. This invalidity contention was without merit, as it assumes that a patent applicant has a duty to expressly disclose, in the specification, every conceivable fact about the field of technology to which the patented invention pertains. CertainTeed's contention, if true, would render every patent invalid – because no patent specification can hope to comprehensively disclose everything that is known about the field. CertainTeed also contended that the '480 patent was invalid because it did not expressly disclose how to determine the length of engaging threads on a taper-threaded pipe. This argument was equally without merit for all of the many reasons set forth in Modern Products' Response to CertainTeed's Motion for Summary Judgment of Invalidity, which accompanies this IDS.

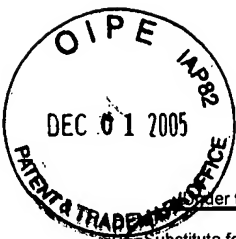
To give the Examiner an opportunity to evaluate those contentions for himself, the undersigned has attached copies of CertainTeed's and Northern Pipe Products' most recent pleadings and several other papers from those cases. The undersigned has also attached recent PACER docket sheets for these two cases. The Examiner is welcome to request further materials from the lawsuits.

The undersigned wishes to notify the Examiner that the *CertainTeed* lawsuit has recently been settled according to terms mutually agreeable to both parties in which CertainTeed has agreed to take a license to the '480 patent. The case is expected to be dismissed pending finalization of the settlement papers. Due to this settlement, no further rulings, beyond the court's Markman orders – which by construing the claims affirmed that they were definite (for it is impossible to provide a definite construction to an indefinite term) – is expected from the Eastern District of Pennsylvania on any issue relating to the validity of the '480 patent.

Respectfully submitted,



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INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)		Complete if Known	
		Application Number	10/664,637
		Filing Date	9/19/2003
		First Named Inventor	Morris Haney
		Art Unit	3679
		Examiner Name	David Bochna
Sheet 1	of 2	Attorney Docket Number	P-7627(DIV)

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
		Gene Culver, "Chapter 6: Drilling and Well Construction," Geothermal Direct-Use Engineering and Design Guidebook (attached as Exhibit A-1 to Response to Office Action)	
		Excerpts from Thomas Sixsmith et al., Handbook of Thermoplastic Piping System Design (attached as Exhibit A-2 to Response to Office Action)	
		CertainTeed's Amended and Supplemental Complaint, entered 1/22/2004, in the E.D.Pa case of CertainTeed v. Modern Products	
		CertainTeed's Answer to Modern Products' Counterclaim, filed 2/24/2004, in the E.D.Pa case of CertainTeed v. Modern Products	
		Northern Products' Answer to Modern Products Complaint, entered _____, in the D.N.D case of Modern Products v. Northern Pipe	
		PACER printout of pleadings in E.D.Pa case of CertainTeed v. Modern Products.	
		PACER printout of pleadings in D.N.D. case of Modern Products v. Northern Pipe.	
		Transcript of May 12, 2004 Deposition of CertainTeed witness John Stott, (attached as Exhibit A-18 to Response to Office Action)	
		Transcript of November 18, 2004 Deposition of Northern Products witness Victor Weigel	
		The Eastern District of Pennsylvania's May 2, 2005, Memorandum and Order on Claim Construction	

Examiner Signature	Date Considered
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Substitute for form 1449/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Use as many sheets as necessary)</i>		Complete if Known			
		Application Number	10/664,637		
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		First Named Inventor	Morris Haney		
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		Stipulation by the parties, filed July 20, 2005, adopting the E.D.Pa.'s claim constructions in the D.N.D. case of Modern Products v. Northern Pipe	
		The Eastern District of Pennsylvania's Oct. 24, 2005 ruling on the meaning of "predetermined interior diameter"	
		CertainTeed's Brief in Support of its MSJ of Invalidity, filed 9/19/2005, in the EDPa case of CertainTeed v. Modern Products.	
		Modern Products' Response in Opposition to CertainTeed's MSJ of Invalidity, filed 10/11/2005, in E.D.Pa case of CertainTeed v. Modern Products	
		CertainTeed's 35 U.S.C. § 282 Notice, served on 10/28/2005, in E.D.Pa case of CertainTeed v. Modern Products (note: all listed art is already part of record of '480 patent).	

Examiner Signature		Date Considered	
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